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TENDENCIES IN ECONOMIC LEGISLATION IN WISCONSIN

Discovery of new economic or social principles plays a part in changing conditions less important than the change of emphasis on principles already recognized. Opening up of new regions, the change of a commonwealth from dependence on agriculture to dependence on industry, new resources for developing power, new streams of immigration, and similar influences may change the relative importance of principles already working in the body politic, but they seldom introduce elements of genuine newness. Though the discussion in the press and in campaigns carries the contrary impression, this is true of the so-called progressive legislation in Wisconsin. There is in it little that is new. It represents rather an adaptation of principles with which experiments have been made elsewhere. New conditions—economic, social, and political—have come, and to them have been applied, with the modifications demanded by the case, the expedients already tried out in similar though simpler conditions.

Not only is there little that is absolutely new in this legislation, but there has been included in it no logical development. There is no well-worked-out plan to which the state's leaders in political affairs in the last fifteen years have committed themselves. The steps taken have been opportunistic. Specific abuses have been met by the best remedies at hand at the moment, and when these remedies proved inadequate to accomplish the end sought amendments have been passed or entirely new measures have been adopted. From this point of view there have been no "tendencies" in Wisconsin economic legislation—at least none which those behind specific measures could have clearly pointed out as coming in the future. Looking back at the measures passed, we can see that their development has taken a certain direction: the successful use of a certain legislative expedient to produce a certain economic result has led to its use under other conditions for other purposes. But

this does not mean that there was any well-worked-out plan or philosophy of government in the minds of those who supported the bills.

I. CENTRALIZATION OF ADMINISTRATION

Within the organization of the state government itself the most marked tendency in economic legislation has been to unify the administration of the laws under a few "commissions," the more important of which are the Railroad Commission, the Tax Commission, the Industrial Commission, and the Dairy and Food Commission. With the exception of the last, these are all small bodies and the commissioners devote their entire time to their official duties. Putting all allied branches of work under a single supervision has recommended itself because of the greater expertness acquired by those who handle the work, the easier elimination of duplication of work, and the greater likelihood of uniform enforcement of law; because the policy to be executed will be uniformly understood and less opportunity will be presented for abuses to occur because of uncertainty as to the jurisdiction under which the work should fall.¹

¹ The extent to which this tendency to unify the administration of economic legislation has developed is indicated by the appended lists of duties successively placed upon the commissions. It is brought out by comparing the development of the Railroad and Tax commissions with that of the Industrial Commission. The advisability of centralizing control was recognized in the latter case at the time of the creation of the Commission.

LAWS ILLUSTRATING CENTRALIZATION OF SUPERVISION OF TAXATION

Chap. 340, laws of 1897, creating a temporary tax commission; expired by limitation December 31, 1898.

Chap. 111, laws of 1899, relating to the taxation of express companies. Sections 1222-51-6 of the statutes.

Chap. 112, laws of 1899, relating to the taxation of sleeping-car companies. Sections 1222*b* to 1222*be*.

Chap. 113, laws of 1899, relating to the taxation of freight line companies. Sections 1222-61-5.

Chap. 114, laws of 1899, relating to the taxation of equipment companies. Sections 1222-71-5.

The four acts last above mentioned were all amended by chap. 477, laws of 1905, sections 1222-81-6.

Chap. 206, laws of 1899, created the offices of commissioner of taxation and first and second assistant commissioners of taxation; superseded by chap. 380, laws of 1905, creating present Tax Commission, sections 1087-31-43.

Chap. 445, laws of 1901, amended by chap. 316, laws of 1903, and chap. 523, laws of 1905, providing for the appointment of county supervisors of assessment and

Placing the administration of laws affecting the general interests of the people under the administration of small groups of men expert in their particular fields and holding office for long terms, practically on good behavior, has not led to overlooking the fact that many laws are best enforced by local officers and that the standard of action in local affairs had best be set down by the local legislative bodies. The State Board of Health, for example, though

placing such officers under the supervision of the Tax Commission. Sections 772*a* to 772*j*.

Chaps. 44 and 249, laws of 1903, amended by chap. 96, laws of 1905; chaps. 38 and 504, 1909; chaps. 450 and 530, 1911, chaps. 627, 643, and 763, 1913, relating to taxation of inheritances, bequests, legacies, devises, and successions in certain cases. Sections 1087-1 to 1087-24 inclusive.

Chap. 315, laws of 1903, amended by chap. 216, laws of 1905, relating to the assessment and taxation of railroads by the Tax Commission. Sections 1212 to 1215-30.

Chap. 259, laws of 1905, amended by chap. 263, laws of 1911, authorizing the Commission to order reassessments in certain cases. Sections 1087-44 to 1087-57.

Chap. 474, laws of 1905, authorizing the Tax Commission to review equalizations made by county boards. Sections 1077*a* to 1077*l*.

Chap. 493, laws of 1905, providing for the taxation of street railway companies by the Tax Commission. Sections 1222-1 to 1222-32.

Chap. 494, laws of 1905, providing for the taxation of telegraph companies by the Tax Commission. Sections 1216 to 1218-29.

Chap. 380, laws of 1905, creating a permanent Tax Commission and defining its powers and duties. Added powers chaps. 221, 763, 769, 772, laws of 1913. Sections 1087-31 to 1087-42.

Chap. 522, laws of 1907, providing for the collection of statistics of sales and the assessed values of lands included therein by the Tax Commission and furnishing an abstract thereof to county clerks. Sections 1007 to 1009.

Chap. 53, laws of 1909, making the Tax Commission a state board of assessment to assess the general property of the state for state and county taxes. Superseded by permanent Tax Commission. Section 1087-41*m*.

Joint resolution No. 16, laws of 1909, directing the Tax Commission to compile statistics of income and expenditures of the state and its towns, cities, villages, and counties, and publish the same.

Chap. 262, laws of 1911, requiring the Tax Commission to prepare and furnish forms to town, city, and village officers for the purpose of taxation. Sections 1004*a*, 1005, 1009, 1032, 1067, 1068.

Chap. 523, laws of 1911, amending subdivisions 5 and 12 of section 1087-39 of the statutes relating to public accounts and authorizing the Tax Commission to prescribe a uniform system of accounting and audit the accounts of towns, villages, cities, and counties and instal such system. Section 1087-39, pp. 5 and 12.

Chap. 658, laws of 1911, providing for the taxation of incomes and vesting the

it has wide supervisory power, acts in normal circumstances only through the local boards, which have power to make local rules to fit the varying needs of their communities.

Cities have been granted greater measure of autonomy. The constitution prohibits "any special or private laws . . . for incor-

administration thereof in the Tax Commission. Sections 1087*m*-1 to 1087*m*-30. Amended by chaps. 615 and 720, laws of 1913.

LAWS ILLUSTRATING CENTRALIZATION OF SUPERVISION OF PUBLIC HEALTH

Wisconsin Statutes 1898, Secs. 1404-5 to 1421. Board of Health, how constituted; and powers in general.

Also secs. 925-107 ff., powers in cities under general charter law; secs. 4608 ff. Sale of unhealthful foods and drugs.

Laws of Wisconsin, 1901, chap. 225, concerning inspection of schoolhouses.

Laws of Wisconsin, 1903, chap. 191, quarantine of barber shops.

Laws of Wisconsin, 1903, chap. 161, maternity homes.

Laws of Wisconsin, 1903, chap. 230, concerning regulation of bakeries.

Laws of Wisconsin, 1903, chap. 215, contagious diseases among animals.

Laws of Wisconsin, 1903, chap. 152, contagious hospitals.

Laws of Wisconsin, 1903, chap. 369, slaughterhouses.

Laws of Wisconsin, 1903, chap. 152, concerning hospital sites in cities of first and second class.

Laws of Wisconsin, 1905, chap. 361, as amended by chap. 442, laws of 1909. State Tuberculosis Sanitarium.

Laws of Wisconsin, 1905, chap. 433, enlargement of general authority, powers over installation of water systems.

Laws of Wisconsin, 1905, chap. 420, concerning embalming.

Laws of Wisconsin, 1907, chap. 140, organization of local boards; contagious diseases: diphtheria antitoxin, regulations concerning.

Laws of Wisconsin, 1907, chap. 469, as amended by chap. 188 of laws of 1909, concerning registration of vital statistics.

Laws of Wisconsin 1909, chap. 279, quarantine powers.

Laws of Wisconsin, 1909, chap. 14, relating to purity of milk and cream; chap. 215, concerning unclean milk; chap. 44, concerning sanitation in bakeries.

Laws of Wisconsin, 1911, chap. 636, concerning marriages, births, and deaths.

LAWS ILLUSTRATING CENTRALIZATION OF SUPERVISION OF PUBLIC UTILITIES

Wisconsin statutes 1898, sec. 128 and sec. 1794. Office of Railroad Commissioner provided. He was made elective by the people; his duties were to inquire into any neglect or violation of the laws of the state by any railroad, and call attention of Attorney-general to same for prosecution.

Laws of Wisconsin, 1905, chap. 362. This office is abolished and all its powers conferred upon a new Railroad Commission. This is the first law passed to regulate directly railroads and other common carriers, including express companies.

Laws of Wisconsin, 1907, chap. 582. Jurisdiction as defined in chap. 362, 1905, extended to include street and interurban railways, and telegraph companies.

Laws of Wisconsin, 1907, chap. 499. "Public utility" extended to include all

porating any city, town, or village or to amend the charter thereof,"¹ but what were special laws have been in fact passed, especially for the larger cities, by the familiar device of classification. Occasionally what were in fact demands for local legislation have been satisfied by acts to be enforced in the municipalities which adopted them by popular vote. A more straightforward recognition that in local affairs special legislation is needed and that the legislature is not the body which should properly be charged with passing it is found in the laws permitting cities to adopt the commission form of government² and in the measures providing for home rule. In 1911 an act was passed allowing cities to adopt home-rule

private and publicly owned telephone companies and those furnishing heat, light, or power, either directly or indirectly, to or for the public.

Laws of Wisconsin, 1907, chap. 578. All street railways given indeterminate permits; with power of the municipal corporation to buy them, subject to terms set by the Railroad Commission.

Laws of Wisconsin, 1911, chap. 160. No change to be made in freight rates until same is approved by the Railroad Commission.

Laws of Wisconsin, 1911, chap. 48. Toll bridges wholly within the state placed under the operation of the public utility law.

Laws of Wisconsin, 1911, chap. 593. All public service corporations regulated in their issue of stocks and bonds by Railroad Commission.

Laws of Wisconsin, 1911, chap. 652, regulating use of water powers. Declared unconstitutional in 148 Wis. 124.

Laws of Wisconsin, 1913, chap. 755. New water power bill, placing all water powers under control of Railroad Commission, and giving power to municipal corporations to buy those having indeterminate franchises in 30 years. All franchises hereafter given corporations operating water powers are indeterminate.

CENTRALIZATION OF ADMINISTRATION UNDER THE INDUSTRIAL COMMISSION

Centralization of administration under the Industrial Commission was secured for a number of allied bodies of statutes by the passage of chap. 485, laws of 1911. The Industrial Commission took over the functions of the Industrial Accident Board, Commissioner of Labor, and the Bureau of Labor and Industrial Statistics.

In the same session they are given control over working-men's compensation, (chap. 50, laws of 1911, and amended and extended in chap. 599, laws of 1913).

Laws of Wisconsin, 1913, chap. 584. Industrial Commission given power to enforce child labor laws. In chaps. 663 and 462 it is given extensive control over all employment offices, and in chap. 185 is given power to investigate old-age pensions.

Laws of Wisconsin, 1913, chap. 712. Industrial commission made a wage board, and given power to enforce minimum-wage law for women and minors.

¹ Article IV, sec. 31, part 9.

² Chap. 448, 1909, amended by chap. 663, 1911.

charters. There was, in the minds of some, doubt as to the constitutionality of the measure;¹ and the same legislature passed a joint resolution to amend the constitution so as to give the legislature the power to establish municipal home rule.² The next legislature passed the resolution again and the people are to vote on its adoption in November, 1914. By this combination policy of delegating powers over different classes of economic affairs to commissioners with state-wide powers or to the localities, the attempt has been made to put the control in the hands of those best acquainted with the facts and best able in each case to enforce the rule established.

2. INCREASE OF ADMINISTRATIVE CONTROL

Another marked tendency in the economic legislation of the state is the increase of administrative control by the grant of wide power to supplement the letter of the law by orders carrying out its intent.

Economic and social conditions in modern states tend to become increasingly various as industries become more complex. To control them by detailed provisions of the act becomes in such cases difficult, if not impossible. The draftsman cannot know all the varying conditions which must be met; and even if a law fits the conditions prevailing at its passage their rapid shifting may soon make the act a restraint on legitimate business activity or a license to do that not intended to be allowed by the legislature. To avoid this difficulty many important statutes now avoid the specification of details. A general intent is stated, and the power is granted to the administrative officers to supplement the act by administrative orders which may be varied at different times and may apply only to certain localities or industries. The advantages are illustrated in some of the most important Wisconsin laws affecting economic conditions.

Thus the Industrial Commission is empowered to prescribe safety devices and any other methods of protection needed in

¹ This belief was declared correct in the case *State ex rel. Mueller v. Thompson*, Wis. Rep. 149 (1912), p. 488, arising under the law above cited.

² Joint Resolution No. 73, 1911.

industries to render the conditions of labor of employees "safe and to protect their welfare."¹ Its other wide powers are exercised under a similar freedom. The power of inspection and control by orders includes² the enforcement, "so far as not otherwise provided in the statutes, of the laws relating to child labor, laundries, stores, employment of females, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, means of egress from buildings, scaffolds, hoists, ladders, . . . the erection, repair, alteration, or painting of buildings and structures, and all other laws protecting the life, health, safety, and welfare of employees in employments and places of employment and frequenters of places of employment" and "public buildings."³

The orders are to be as nearly uniform as possible, but where necessary to carry out the purposes of the law the commission may establish "reasonable classifications of persons, employments, places of employment, and public buildings."⁴ The investigation upon which the orders are based can be made upon the initiative of the Commission or upon complaint of any citizen.⁵ Violations of orders are punished by a fine of from ten to one hundred dollars for each day the law is not observed.⁶

The Railroad Commission and the State Board of Health have similar powers in the laws under their administration. The former has power to fix by order, when it finds the existing conditions unreasonable, new standards for "rates, fares, charges, or classifications . . . or any regulation or practice whatsoever affecting the transportation of persons or property."⁷ In 1907⁸ a similar control was created over all plants publicly or privately owned which engaged in the "conveyance of telephone messages or . . . the production, transmission, delivery, or furnishing of heat, light, water, or power . . . to or for the public," and over any com-

¹ Wisconsin Statutes, 1913, sec. 2394-52, par. 3.

² *Ibid.*, 1913, secs. 2394-50, 2394-51, and 2494-52.

³ *Ibid.*, 1913, sec. 2394-52, pars. 2 and 5.

⁴ *Ibid.*, 1913, sec. 2394-52, par. 6.

⁵ *Ibid.*, 1913, sec. 2394-53.

⁶ *Ibid.*, 1913, secs. 2394-60 and 2394-70.

⁷ *Ibid.*, 1913, sec. 1797-12.

⁸ Laws of Wisconsin, 1907, chap. 499.

pany which controls a toll bridge wholly within the state.¹ Public utilities are to maintain "reasonably adequate service and facilities" and the Commission is to see that the rates and fares charged are "reasonable and just."²

Just as the Industrial Commission requires that business be carried on under conditions which are "safe" and as the Railroad Commission requires that charges and service be "reasonable," so the State Board of Health has power to adopt rules to insure that the conditions of life be "healthful." They can require by rule that sanitary conditions be kept, can establish quarantine or take other measures to stop the spread of disease, even, when necessary, forbidding public gatherings, closing churches and schools. All orders of the Board are "prima facie reasonable and lawful until they are found otherwise in an action brought for that purpose or until altered or revoked by the State Board of Health."³ Whenever any person or corporation, public or private, pollutes the water supply by discharge of sewage or other wastes, the Board after investigation can, with the approval of the Governor, order improvements installed.⁴ The law forbids the installation of any water or sewage system by a city until the plans are approved by order of the State Board of Health.⁵

General orders issued by the Industrial Commission⁶ and the State Board of Health⁷ under this ordinance are required to be published in the official state papers. Orders issued by the Railroad Commission are served on parties interested and are furnished to all who apply.⁸ Local orders of the State Board of Health or local Board of Health are published in the newspapers of the locality affected⁹ or posted on the premises or in the community where the order takes effect.¹⁰ Special rules are served on the interested parties. The wide range of power granted these administrative commissions has been frequently commented upon. Not

¹ Wisconsin Statutes, 1913, sec. 1797m-1.

² *Ibid.*, 1913, sec. 1797m-2 and 3.

³ *Ibid.*, 1913, secs. 1407a-5 and 6.

⁴ *Ibid.*, 1913, secs. 1407m-1 and 2.

⁵ *Ibid.*, 1913, sec. 1407.

⁶ *Ibid.*, 1913, sec. 2394-56.

⁷ *Ibid.*, 1899, sec. 1408.

⁸ *Ibid.*, 1913, sec. 1797m-19.

⁹ *Ibid.*, 1913, sec. 1413.

¹⁰ *Ibid.*, 1913, sec. 1416-10.

only do they exercise important functions through their power to prescribe orders, but the special acts which the legislature adopts to determine policy in their various jurisdictions are uniformly put under their administration. Jurisdiction is thus gradually widened beyond what appears to be the case from the face of the main acts granting them authority.

3. SPECIAL PROSECUTING MACHINERY

An element which has contributed much to the effectiveness of the Wisconsin economic legislation is the use made of special prosecuting machinery to carry out rules which would not be effectively enforced if left to the local district attorneys. This development shows two branches:

1. The creation of special prosecuting authorities for certain sorts of laws has been found advisable in many states, especially where local public opinion is likely to be opposed to the enforcement of the law. In Wisconsin this expedient is included in some laws for this reason and in others because suits can thus be carried on with greater efficiency or because thus only can uniformity of enforcement be secured. By the Industrial Commission Law, the district attorneys of the counties prosecute, under the supervision of the Commission, all necessary actions for the enforcement of the law; and upon the request of the Commission the Attorney-general is to assist.¹ Special prosecutors are also provided to be chosen by the Commission.² The Railroad Commission may "employ special counsel in any proceeding . . . or trial,"³ whenever they consider it needed in addition to the co-operation given by the Attorney-general and district attorneys.

2. More important in its economic effect is the increasing application of the idea that the constitutionality of much of our legislation should be passed upon only after an investigation of economic conditions. As the laws administered by the commissions have increased in scope, the administrative commissions have been called upon to act as preliminary reviewing authorities to pass

¹ Wisconsin Statutes, 1913, sec. 2394-66., sub-sec. 2.

² *Ibid.*, 1913, sec. 2394-66, sub-sec. 1.

³ *Ibid.*, 1913, sec. 1797m-102.

on cases arising under their own orders. When the legality of any order is questioned the issue is first tried before the Commission itself, which, on the facts presented, may sustain, modify, or annul its action. If the complainant is still unsatisfied he may then appeal for a court trial. There, however, only the information presented at the hearing before the Commission may be offered. If new evidence is offered the case is sent back to the Commission to be considered in the light of the additional facts. The court therefore passes on the case only after the real clash of opinion has first occurred before the Commission. The complainant is not allowed to present only a part of his contention before the Commission in a dummy case and then introduce additional evidence when the case comes before the court for review. This way of making the first hearing as to legality occur before a board familiar with the economic facts on which the case rests was first used in important legislation in Wisconsin in connection with the Railroad Commission. It has since been extended to cases involving public utilities generally¹ and to the orders issued by the Industrial Commission² and the State Board of Health.³

The complaints against service, rates, fares, conditions of work, or sanitation made to the commissions may originate with the commissions, with local authorities, or with private individuals. The expense of the hearings or suits which follow is a public charge. Unless this were so, the law would often go unenforced, since the wrong done in the individual case is usually inconsiderable and private persons would seldom prosecute.

To allow the commissions to have the advantage of the economic data upon which their orders are based it is provided that the suits which may follow hearings in which orders of the commissions are sustained are to be held in the Circuit Court of Dane County, the county in which the Capitol and therefore the offices of the commissions are located. In addition the facilities of the Attorney-general's office are thus made easily available in carrying on the cases.

¹ Wisconsin Statutes, 1913, secs. 1797m-82 to 1797m-86.

² *Ibid.*, 1913, sec. 2394-59 (1911).

³ *Ibid.*, 1913, sec. 1408m-10 (1913).

Though the provisions as to suit included in these laws do not appear at first sight economic in character they have an unmistakable bearing upon the actual enforcement of the provisions of the laws which aim at controlling economic conditions. The prosecutions undertaken at the instance of boards which are state-wide in power represent the carrying-out of a policy uniform in all parts of the commonwealth; the suits are carried through with promptness; and the acts receive a thoroughness of enforcement which would be unapproached if reliance were upon the diligence of local prosecutors and upon the complaints of individuals aggrieved. Most important, the information collected by the Commission covering a wide field of economic facts makes possible a demonstration of the need of the order, and of its conformity with the requirements of the constitution, which would otherwise be lacking. Indeed, it is not too much to say that without the special expedients for prosecution provided, the economic effect of this sort of legislation would in many cases sink to the vanishing-point.

4. A LEGAL STANDARD

Marked advance has been made in the laws which set up a standard which will be considered legal, and which require observance of the standard by frequent inspection and penalty if the rule is not obeyed. These acts seek to stop the evil "at the source" instead of waiting until its consequences have been passed on to individuals or the community, when the economic loss would be greater and, so far as the persons affected are concerned, generally irretrievable. This "ounce of prevention" policy is back of many acts and of a large number of the orders issued by the commissions. Among the acts in which this tendency appears are the detailed laws administered by the Dairy and Food Commission, which establish standard measures in which alone various foodstuffs may be offered for sale, such as milk bottles, flour barrels, peach crates; standards of quality for cotton duck, canvas, paints and oils, and a comprehensive standard scale for drugs, dairy products, and other foods. The standards are maintained through a staff of chemists who test samples collected by inspectors who visit the places in which the various products are manufactured or sold.

A similar preventive purpose is served by the inspections carried out under the authority of the Industrial Commission to insure that the conditions of employment do not involve dangers to the employees' health, and also by the inspections carried on by local and state health officers to protect the health of the community at large.

5. INDUCEMENTS OFFERED BY STATUTE

Another class of laws provides special advantages for those who follow a certain course of action, or discriminations against those who do not. Some laws grant money subventions to the local units of government on condition that they raise the standards of service or undertake new branches of public work. The use of the subsidy to set off one community against another has long been an expedient used to encourage greater appropriations by local authorities for education in the common schools. It is now being used in a variety of ways to induce changes of a more distinctly economic sort. Allied to the former use is that by which special aid is now given to schools which establish teaching in domestic science, manual training, and industrial education, or to those which maintain continuation schools.¹ The same expedient is used with success in promoting better transportation facilities. A beginning was made in granting state aid in the building of bridges over the Wisconsin River, the townships and counties bearing a part of the expense but the state encouraging the undertaking of the improvement by contributing not to exceed one-fifth of the total cost.² In 1913 the same expedient was adopted in a comprehensive statute for encouraging the expenditure of money by the localities for the betterment of the highways.³

From one point of view these subsidy acts amount to the *creation* of indirect discriminations by the law against those who do not follow a certain standard of conduct. Other acts create differentiations of a more direct character. The most marked of these laws which aim to better conditions by discriminating against those who do not adopt the standard of conduct which the act favors is

¹ Wisconsin Statutes, 1913, secs. 496c, 553p-6.

² *Ibid.*, 1913, sec. 1321a.

³ *Ibid.*, 1913, secs. 1317m to 1317m-16.

the Workmen's Compensation Act. This act modified the common-law standards of the liability borne by the employer so as in fact to increase his burdens. It then allowed him to escape the consequences if he "elected" to come under the provisions of the compensation act. It is needless to say that the act was only pseudo-elective, the intent being to make one of the alternatives offered manifestly unwelcome. The act as originally passed declared that in actions to recover damages for a personal injury to an employee it should not be a defense that the employee had assumed the risk of the employment or that the injury or death was caused "in whole or in part by the want of ordinary care of a fellow-servant."¹ If the employer elected to come under the compensation law his liability was limited by the duration and extent of the disability caused, with a definite maximum based on the wages which the employee was receiving. In 1913 the discrimination against those not under the compensation law was pressed still farther by providing that the employer could not escape liability, even where the employee was guilty of contributory negligence, providing the negligence was not wilful.² The amount of damages to be allowed for various injuries was detailed by schedule and the presumption of election to come under the law was changed, every employer being presumed to be under its provisions unless before September 1, 1913, he declared his intention not to be.³

6. TAX EQUALIZATIONS

The desire to remove discriminations and equalize burdens as between different classes of property, different persons, and different communities is prominent in the legislation under the taxing power. The important recent developments in this field all involve a recognition that the general property tax system is inadequate to stop *de facto* discriminations between certain classes of property and that the collection of certain taxes ought not be left to the local authorities. The chief changes in the taxing system are (1) the adoption of the physical value of public utilities as the basis for

¹ Laws of Wisconsin, 1911, chap. 50.

² *Ibid.*, 1913, chap. 599, sec. 2394-1, par. 3.

³ *Ibid.*, 1913, chap. 599, sec. 2394-4.

taxing them, (2) the adoption of a state income tax and the practical abandonment of the personal-property tax, (3) the adoption of an inheritance tax, and (4) the extension of state supervision and control over all processes of taxation.

1. The general property tax as the basis of public revenue was introduced in Wisconsin when it formed a part of the territory of Michigan, and remained the basis on which the tax laws rested till the beginning of the present century. The only important exceptions were found in special acts applying to public-service corporations. These were generally license taxes upon the gross income and payable directly to the state. They were applied to railroad companies and later to other public-service companies.¹ Acting on the recommendation of a temporary tax commission in 1899, the legislature passed a law for assessment and taxation of express, sleeping-car, freight line, and equipment companies on the value of their property in the state.²

In 1903 the assessment of all railway property was put upon the ad valorem basis for taxation³ at the average rate of the general property of the state. The valuation was made in 1903 and stood as the assessment of 1904. This method of railroad taxation has been followed uniformly since that date. In 1905 the same system was extended to the street railway and telegraph companies and in 1911 to gas, electric light, water, power, and heat companies.⁴

2. The failure of the general property tax to reach effectively certain classes of property, especially certain sorts of personal property, was the cause of the present experiment of Wisconsin in income taxation. The returns sent in by the local assessors showed disregard of law and great undervaluation. The legislature, in passing the income tax,⁵ avowedly made it a partial substitute for the personal-property tax by exempting certain classes of property from taxation, including money and credits of all kinds, stocks and

¹ *Report of the Wisconsin Tax Commission*, 1912, p. 1.

² Laws of Wisconsin, 1899, chap. 111, express companies; chap. 112, sleeping-car companies; chap. 113, freight line companies; chap. 114, equipment companies.

³ Laws of Wisconsin, 1903, chap. 315.

⁴ See discussion of this law, *Report of Wisconsin Tax Commission*, 1912, pp. 4-5.

⁵ *Report of Wisconsin Tax Commission*, 1912, pp. 24 ff.

bonds, household goods, and farm machinery. There is indeed a movement in favor of still further extending the exemptions of personal property, possibly of exempting it from taxation altogether.

The important features of the Wisconsin income tax are: (a) It is not an additional tax but a partial substitute for the personal-property tax. Moreover the tax paid on any personal property is subtracted from that payable under the income-tax law. (b) It is confined to the income from property located and business transacted within the state. (c) The income from the tax is distributed, 70 per cent to the town, city, or village in which it is collected, 20 per cent to the county, and only 10 per cent to the state. The state bears practically all the expense of administration of the law. This distribution illustrates the tendency noticed elsewhere to adopt state supervision for the doing of work which cannot be done effectively if it is left to local authorities. (d) The rate of the tax is graduated according to the amount of the income. An exemption is allowed of \$800 for unmarried persons, \$1,200 for man and wife, and \$200 for each dependent child. On personal income the tax starts at 1 per cent on the first thousand dollars not exempt and rises to 6 per cent. The income tax on corporations is determined by the relations between the taxable income and the assessed value of the property used in obtaining it. Here too it rises to a maximum of 6 per cent. (e) The principle of "collection at the source" has been extensively applied. Thus the corporation pays on its total profits, and the dividend of the individual stockholder is not taxed. (f) The administration of the law is centralized under the Tax Commission and not left to local officials.¹

3. Inheritance taxes in force in Wisconsin date from 1903, but have been modified at each subsequent session of the legislature.² As with the income tax later adopted, the motive in establishing

¹ Summarized from *Report of Wisconsin Tax Commission*, 1912, pp. 26-27.

² Laws of Wisconsin, 1903, chaps. 44 and 249; 1905, chap. 96; 1907, chaps. 500 and 660; 1909, chaps. 38 and 504; 1911, chaps. 450 and 530; 1913, chaps. 627, 643, 763. A previous law (Laws of Wisconsin, 1899, chap. 355, and 1901, chap. 245) was declared unconstitutional by the Supreme Court on the ground of unreasonable and unlawful classifications (*Black v. State*, 113 Wis. 205). The law of 1903 was sustained in *Nunnemacher v. State*, 129 Wis. 190.

this tax was to secure a substitute for the failing personal-property tax.¹ Unlike the income tax it is one which is not equally available as a local and as a state means of raising revenue. The amount collected in the single counties varies greatly from year to year, but when the tax is devoted to state purposes it is sufficiently certain to be counted on as a regular item of revenue. In using the inheritance tax as a state revenue Wisconsin follows the usual practice in states with similar laws.

4. Along with the other tendencies in taxation has gone a development of increasing state control through a single commission over all branches of the taxing machinery. The result has been to increase greatly the economic efficiency of the tax laws, and to remove inequalities in the tax burden of the various communities. The extension of state taxation to the public-utility companies was itself an example of this development. It was only the first step toward the present measure of centralized control. In 1901 the Tax Commission was made the State Board of Assessment in place of the three state officers who formerly acted in that capacity.² The same legislature created "county supervisors of assessment to act under the direction of the Tax Commission with authority to exercise general supervision over the local assessors . . . and assist the county board in equalizing state and county taxes."³ This law did much to make uniform the assessment of the general property of the state. In 1905 power was granted the Commission to order a reassessment in any district when a taxpayer complained that the original one was not according to law. The same legislature authorized the Commission to review equalizations made by county boards,⁴ and to order reassessments in certain cases.⁵ To aid in the performance of these duties, in 1907 the Commission was given power to collect statistics of recorded sales of real estate in each county. Abstracts of these statistics are furnished to each county clerk for the use of the board in equalizing taxes.⁶ The Commission may also prescribe forms to be used by

¹ *Report of the Wisconsin Tax Commission*, 1898, pp. 160-69.

² *Laws of Wisconsin*, 1901, chap. 237.

³ *Ibid.*, 1901, chap. 445.

⁵ *Ibid.*, 1905, chap. 259.

⁴ *Ibid.*, 1905, chap. 474.

⁶ *Ibid.*, 1907, chap. 522.

local taxing officers,¹ audit the accounts of towns, cities, and villages, and on request of the local authorities instal systems of public accounting.²

At present, as a result, there is a comprehensive control by a central administrative body of all the public revenues. Localities of course still vote taxes as before, but the equality of burden upon all property is sought whether in the raising of local or state revenue, first by the nature of the taxes levied and second by state supervision of the way in which they are apportioned both in state and local levies.³

SUMMARY

It is difficult to characterize developments so diverse as those found in recent economic legislation in Wisconsin. Still certain common features seem to indicate that though the philosophy back of the passage of the laws has not been clear-cut, there has been a certain uniformity of purpose.

1. There has been in economic legislation an increased reliance on state action to secure more efficient and uniform enforcement, to eliminate abuses which would not be brought into court if reliance were placed on ordinary civil suit, and to remove discriminations which would arise if local officials were relied upon for the administration of the statutes.

¹ Laws of Wisconsin, 1911, chap. 262.

² *Ibid.*, 1911, chap. 523.

³ Any discussion of tendencies in recent economic legislation in Wisconsin should mention the laws establishing a system of state insurance. Under these laws it is hoped to supply an agency which shall act as regulative of the charges by private companies rather than one which will supplant them. The maximum amount of each policy is \$1,000 until there are 1,000 policies, then \$2,000 till there are 2,000 policies, and \$3,000 after there are 3,000 policies. Only the money paid in as premiums may be paid out for death losses. The state assumes no responsibility for their payment. The premiums are on the basis of the American experience, 3 per cent, that used by the more conservative "old line" companies. Profits at the end of the year are divided among the policy-holders. The plan was put in operation in October, 1913. There are now over 250 policy-holders. The money is invested in mortgages earning 5 per cent net.

The laws on the subject are Laws of Wisconsin, 1911, chap. 577, and 1913, chap. 291. An article by B. S. Beecher outlining the plan is found in the *Review of Reviews* for January, 1913, pp. 79-83. A criticism of the plan by W. A. Fricke is found in the *American Underwriter*, November, 1913.

2. There has been an increase in the powers given to administrative officers. The legislature has been freed from the necessity of enumerating the details of administration by allowing the issuance of administrative orders. The result is that the rules laid down in economic legislation have been made flexible to meet changing conditions and the cases arising turn more on the economic facts determined by the administrative bodies and less on technical legal rights.

3. In the laws and administrative orders supplementing them there is a marked development in favor of greater protection for those classes of the population who occupy positions economically weak. They aim to restore to the employee injured in industry his equality of economic opportunity, to furnish to the unemployed information concerning opportunities to work, to keep open the possibility of further education to those who have been forced to leave school early, to protect children from being forced into industry early, to protect minors and women from excessive hours of labor, to protect the health and safety of those not in a position to demand proper conditions on their own account, and in general to protect the public from unhealthful foods and bad sanitation.

4. The enforcement of economic legislation has been greatly improved by the creation of special prosecuting authorities and by centralizing the administration in the hands of commissions which *de facto* have not only the power to adjust the law to the needs of the localities and to the shifting changes in conditions, but also the right to have tried before them the legality of their orders before the cases can be carried to the courts. The result of this development is that the hearings before the commissions have eliminated many cases which formerly would have been taken before the courts.

5. Finally the revenues of the state have been readjusted with the intent to make them fit the conditions of modern industrial life in order that no person, locality, or class of property shall escape its just share of the burden of public expenditures.

In Wisconsin as in other states the public policy of many of the laws passed with these motives has not escaped question. Good motives are not uniformly accompanied by wisdom and at times

there has been evidenced a willingness to strain the constitution and to accomplish that indirectly which done directly would be unconstitutional. These tendencies, which it is but fair to say have appeared more in the legislation proposed than in the acts passed, arouse no enthusiasm among conservative reformers. Nor are they on the increase. In fact one of the most important characteristics of Wisconsin legislation in recent years has been the growing willingness shown to wait for thoroughgoing investigation before acting. How much "progressive" legislation passed in our states has been declared void for failure to observe this cardinal rule of good legislation! When a statute is passed affecting wide economic interests, with only the counsel of the experience of the average legislator plus what current and often partisan information can be secured at hasty committee hearings, injustice is inevitable and unconstitutionality hard to avoid. To escape the pitfalls involved in acting on insufficient evidence the legislature of Wisconsin has shown an increasing willingness to create special committees which investigate topics assigned to them in the period between the regular sessions, and report not only the result of their investigations but arguments in favor of certain action and formulated bills.¹

The conditions under which the more important measures pass are therefore ones which tend to assure a sober judgment on facts already ascertained. That there are futile and ill-advised laws passed in Wisconsin as in every other state is of course true, but it is also true that there is an increasing unwillingness to try to regulate complicated social and economic affairs on short notice and insufficient investigation.

CHESTER LLOYD JONES

UNIVERSITY OF WISCONSIN

¹ The committees of this sort appointed by the legislature of 1913 are (appointed in both senate and assembly) forestry, vice, occupational diseases; (appointed in senate only), judicial circuits.